

The study of conditions and directions of spatial development as an instrument for commune spatial security management

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Abstract:

Aim: The paper has two main aims. The first one is to outline the current legal framework regulating the study of conditions and directions of spatial development – especially in terms of its content and adoption procedure. The other aim is the author’s attempt at answering the question what are the legal consequences of adopting the study in the context of s statutory duty to ensure public security as communes’ direct responsibility, i.e. – in relation to every citizen of the Republic of Poland as regards spatial security across commune.

Design /research methods: In order to attain these aims, the author employed a descriptive method to show the procedure involved in drawing up planning acts together with a key role of public administration bodies and a consulting role played by the community and the importance of its participation in the planning process. However, the author confined herself only to the study of conditions and directions of spatial development because of the editing requirements for scientific papers in terms of the volume of discussion (what was omitted was the discussion concerned with commune decisions on localization and local spatial development plans).

Conclusions / findings: Presenting legal consequences stemming from adopting planning acts and making planning decisions, and the administrative measures corresponding to their characteristics was necessary for comprehending the threats arising from irrational actions taken by commune authorities – understood as failing to include information within the scope of flood risk management in the process of spatial planning and development, as part of decision-making freedom afforded to communes.

Originality / value of the paper: The analysis of legal regulations has been complemented by practical knowledge. The content of the paper will, therefore, provide information on the legal nature of the study of conditions and directions of spatial development for residents of every commune and for investors, who having an opportunity to familiarize themselves with the arrangements of the study, can make further decisions, which has a direct impact on the level of Poland’s spatial security.

Keywords: spatial development, the study of conditions and directions of spatial development, spatial security.

JEL: K25; H76

1. Introduction

Commune instruments for spatial planning are part of the basic and preventive instruments for spatial security management across the entire area of the principal unit of local government, exerting a direct impact on the level of public security locally, and subsequently on the regional and national security of the Republic of Poland.

The responsibilities of the commune authorities in terms of spatial security of its residents encompass the following: passing local laws and planning policies of a general nature and issuing individual decisions on location. Moreover, it needs to be stressed that for every commune the study of conditions and directions of spatial development is a compulsory instrument within the area of prevention and spatial security. On the other hand, despite their playing a preventive role in protecting public security in the commune, local laws, of which local spatial development plans are part, are drafted only optionally (they are not required).

The duty of having to draw up the study as a planning act and issuing individual decisions on location impose on local government authorities a requirement to manage rationally public security and spatial security, it being incorporated within the public security management framework, across the area covered by the local government. Thus, the purpose of the commune's authorities is always to perform public tasks which also include having to protect every resident of the principal unit of the local government and to ensure that the local community accepts the level of risk.

Pursuing the goal of spatial security, perceived as a public task, by the authorities of the basic unit of the local government encompasses legislative measures. They consist in drafting local laws and planning documents pursuant to the wording of the provisions of the Act of 27 March 2003 on Spatial Development (Official Journal 2017, item 1073, as amended) and implementing rules of this act and other acts within the substantive area of administrative law. On the other hand, in order to ensure an adequate level of security for residents by commune authorities, commune decision-making and implementing bodies are required to take actions, within the framework of legal measures, in compliance with protection and development of spatial order, protection as regards the environment, nature and landscape, as well as national heritage and historic monuments protection. What needs to be particularly highlighted is that delineation of borders in planning documents is also required as are the ways in which to develop commune's flood risk areas as well

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as those areas exposed to other natural risks characteristic for a given area covered by the basic local government unit.

The aim of the paper is to make an attempt at answering the question as to the essential features and role of the planning instruments employed by the commune in the entire process of spatial security protection management. Moreover, the author demonstrates the importance of fulfilling the requirement of public security protection by the principal units of local governments, under Article 7 point 14 in conjunction with point 1 of the Act of 8 March 1990 on Commune Government (Official Journal 2017, item 1875 as amended).

The paper has two objectives. The first one is to outline the present legal system governing the study of conditions and directions of spatial development – especially referring to the content and procedure of its adoption. The second objective is the author's attempt at answering the question what the legal consequences of adopting the study are – formulated in the paper as *de lege ferenda* conclusions in the context of the statutory requirement of ensuring public security as a public task to be performed by a commune i.e. – in relation to every citizen of the the Republic of Poland in terms of spatial security at the level of local community.

In order to achieve these objectives, using the descriptive method was advisable, since it allowed for showing the procedure for drafting planning acts as well as the key role played by public administration authorities and the community's consultative role including its participation in the planning process. Demonstrating the legal consequences stemming from the adoption of planning instruments and from the planning decisions corresponding to their characteristics was necessary for comprehending the risks arising from irrational actions taken by commune's authorities –understood as failing to take into account information provided within the scope of flood risk management while devising the process of spatial planning and development under decision-making discretion conferred on communes. However, the scope of discussion required by editors of scientific papers made it necessary to confine the analysis of these issues to the study of conditions and directions of spatial development (what was omitted were the communes' decisions on location and local spatial development plans) with references made in the subsequent section of the paper to the achievements of administrative law and judicial decisions pertaining to this subject.

2. Spatial planning system in the Republic of Poland

In the Republic of Poland, the system of spatial planning and development was divided under law between the state and the local government. The concept of local government should be understood as a union of local community distinguished within the state structure and established by virtue of law and appointed to perform public administration by itself being equipped with material resources enabling it to perform responsibilities imposed on it (Ochendowski 1999: 299).

The scope of responsibilities of the state and local government units for spatial planning and development is different depending on the location itself within the system. The spatial system was divided by the legislator into three levels: national, regional and local. The legal basis for this division is provided by Article 3(3) of the Act on Spatial Planning and Development as well by the delegation of powers issued under this act in the form of Resolution no. 239 adopted by the Council of Ministers on 13 December 2011 on adopting the Concept for National Spatial Development 2030 („Monitor Polski” 2012, item 252) – hereafter referred to as Concept 2030, which has been in force in Poland since 27 April 2012.

In addition, pursuant to the content of the “Concept until year 2030”, the legislator distinguishes, next to the national, regional and local level, also the functional level, which has been defined as a separate horizontal category of planning, as it was necessary to ensure planning across areas with specific features not bound to any administrative constraints regardless of the existence of national, voivodship or local plans (plans of functional areas) – (see more in Concept for National Spatial Development 2030 / *Koncepcja Przestrzennego Zagospodarowania Kraju* 2012: 18).

At the national level, developing and conducting spatial policy is a responsibility of the Council of Ministers and it is laid down directly in the provisions of the Concept 2030 and Article 3(3) of the Act on Spatial Planning and Development which introduced the first of the levels in Poland’s spatial planning. For the national planning, it is the Council of Ministers that is responsible for all the actions taken at this tier.

The next tier in the spatial planning system is regional planning which is carried out at the level of the voivodship government. Spatial planning is a compulsory public task to be performed by the voivodship government authorities and is carried out only within the administrative boundaries of the voivodship.

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Developing and running spatial policy in the voivodship, which in Poland plays the role of a region, is pursued based on the plan of the voivodship's spatial development. This plan is a basic planning instrument for regional spatial development. However, it is not a local law and it does not constitute the basis for issuing decisions as to location. Still, it is a specific act, for in terms of its content it can be classified within two systems: spatial planning acts and socio-economic planning acts (Małysa-Sulińska 2008: 140). What can be inferred from the above is that the plan for spatial development of voivodship should be considered an act binding for communes while drawing up a study of conditions and directions of spatial development.

The last level in the planning system and spatial development is the commune level responsible for local planning. While referring to the very term "commune," one should point out that within the meaning of the provisions of the Act on Commune Government, it is a principal unit of the local government comprised of a self-governing community and corresponding territory. The term "self-governing community" is to be conceived of as commune's inhabitants who by virtue of law make up a self-governing community, that is, citizens who have lasting ties with this community, in other words, who reside in a given commune. "Commune's citizens make up under law a self-governing community which is comprised of the community settled on the commune's territory while the fact of being registered as its resident does not yet define being part of a self-governing community" (a judgment by a Voivodship Administrative Court, III SA/Kr 318/05 Lex no. 190403 dated 19 July 2007).

The commune's direct responsibility is to develop and conduct spatial policy on its territory, including adopting a study of conditions and directions of spatial development and local spatial development plan – where it is required to identify the areas which are particularly at risk of flooding. The essential characteristic of a direct responsibility is that the commune may not evade it. The principal unit of local government is afforded a considerable autonomy in terms of the commune's spatial development. This autonomy, however, is not absolute as it is affected by legal limitations provided for in the provisions of substantive law.

The structure of the Polish spatial development system consists of three levels – national, regional and local – which is characterized by a complete decentralization of responsibilities within the scope of spatial development. Moreover, the commune's independence in terms of spatial planning is what has developed very visibly in this system, which affords this unit of local

government a special position in the organizational system of spatial planning (Niewiadomski 2003: 73; Małysa-Sulińska 2008: 55).

What should further be stressed is that in the field of spatial order that is precisely the commune local government that enjoys a very wide range of possibilities in terms of actions it can take. In making decisions as to the spatial aspect of communes, local government authorities determine the purpose and the rules on how to use the land situated in a very close vicinity to every resident of the commune, and every citizen of the Republic of Poland. The legal solutions adopted by the legislator are crucial because the local authorities' solutions pertaining to land-use planning are universally binding, and as such are binding for land owners defining the purpose and nature of their land.

3. The study of conditions and directions of spatial development as a commune planning act of a general nature

In Poland, the most important and most detailed planning is one carried out in the commune which stands closest to people and which is a place where threats for the country's public security may occur. At the level of the commune, there are the following two planning acts: the study of conditions and directions of spatial development and local spatial development plan. A decision-making body – the commune council adopts these acts as resolutions. However, they differ in their binding force. The legislator gave the rank of an act of local law only to the local spatial development plan. The process of drawing up those plans is extremely labor-intensive and expensive. This is also the main reason why they are not present in the basic unit of local government.

The study of conditions and directions of spatial development is passed by the commune council. However, this legal act is not a local law that is universally binding nor does it provide grounds for issuing administrative decisions on spatial development affecting directly the level of public security. Only an act of law that is universally binding may constitute the legal basis for making decisions on location with regard to a specific citizen of the commune, and this is not altered by the fact that the commune, when adopting the local plan, is tied by the arrangements made within the study of conditions and directions of spatial development. Thus, if an arrangement of the study is not included in the local plan, then it is not universally binding for any citizen of the commune and may not constitute a substantive legal basis for issuing administrative decisions. This

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view is in line with the jurisprudence of administrative courts (see more, for example, the judgment of the Supreme Administrative Court dated 31 March 2008, II OSK 317/07 W, Lex no. 490164).

3.1 The content of the study of conditions and directions of spatial development

The study of conditions and directions of spatial development is drawn up based on the provisions of the Act on Spatial Planning and Development and on the implementing act to this act issued pursuant to Article 10(4) of this act – Regulation of the Minister of Infrastructure of 28 April 2004 on the scope of the commune’s draft study of conditions and directions of spatial development, Official Journal 2004, no. 118, item 1233.

The above regulation from 2004 lays down the required scope of the commune’s study of conditions and directions of spatial development as to the text and graphic form, and in particular it sets out the requirements pertaining to: planning materials, the scale of cartographic works; markings, names and standards applied and the method for documenting planning works. The draft study should include the following components: 1) a section laying down the determinants referred to in Article 10(1) of the act, presented as text and in graphic forms; 2) the text section comprised of arrangements establishing the directions of spatial development referred to in Article 10(2) of the act; 3) a blueprint showing in a graphic form arrangements establishing the directions of the commune’s spatial development, and the boundaries of the areas referred to in Article 10(2) of the act; 4) justification in which explanation is provided as to solutions adopted and the syntheses of arrangements of the draft study.

The study is composed of a text part and a drawing presenting the arrangements as regards the directions of the commune’s spatial development and built-up areas which have already been developed, fenced off according to their previous use. The scope of the study is regulated by the legislator in Article 10 of the Act on Spatial Planning and Development separating the required substantive scope of the study, which is broken down into part one (Article 10(1) and part two (Article 10(2)). One should, however, mention that the scope of the study is considered for the commune’s individual situations, referring to issues that are characteristic for a specific commune in Poland.

The first part is often referred to as the inventory part. This is where the commune’s area inventory is taken. While referring to the local space, one has to consider the conditions arising

from its previous use, from the built-up state as well as the utility network present within the area concerned, from the state of spatial order and requirements for its protection, and from the environmental situation, including land for agriculture and forestry production; the size and quality of water resources, and the requirements in terms of protection of the environment, nature and cultural landscape. The determinants of the commune's spatial policy also arise from other specific problems or actual situation, as, for example, the needs and possibilities for the commune's development, the legal status of the commune land, objects and areas protected under separate provisions, the state of the communication and technical infrastructure system, including the extent to which water and waste water, energy and waste infrastructure is regulated, as well as the needs pertaining to tasks aimed at implementing supra-local public goals (Radziszewski 2006: 55-56).

What is also indicated in the first part is the existing situation, that is, factual and legal determinants, in other words, basic information on the commune's area, phenomena and problems which determine the commune's spatial development already in place, together with its existing legal status. The determinants also include arrangements of other entities' planning acts which the commune is required to take into account in its study. These acts refer to the voivodship's study of conditions and directions of spatial development and government programs adopted through the regulation of the Council of the Ministers.

With having to identify a broad range of determinants, the substantive basis of the study is in fact an analysis of virtually all elements involved in the commune's operations with those elements being either spatial in their nature or having spatial effects. The analysis must pertain to the following: the commune's population, natural environment, economy, services, road network and technical infrastructure. The broad scope of the analysis confers on the study the character of a strategic study which defines general directions for the development of different domains within the socio-economic space (Gorzym-Wilkowski 2006: 89).

The second part is a creative part. Its substantive content has been laid down in Article 10(2) of the Act on Spatial Planning and Development. It refers to decisions stemming from the acts of the commune's spatial policy. The part covers the provisions, in other words, directions of the commune's spatial development which are required to be applied while drafting local spatial development plans. These provisions include, among other things, conceptual arrangements in the form of commune's spatial policies, proposals and recommendations of other planning authorities.

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These include, for instance, changing the commune's spatial structure, expanding communication and technical infrastructure, using land, shaping agricultural and forestry production space.

Another category of arrangements which are binding while planning locally is to define areas where a local plan is compulsory under special legal provisions. The arrangements delineate areas where plans are expected to be adopted. The binding arrangements are also indicators for land development and use, the areas and rules on environmental protection, cultural heritage, the areas where public benefit investments will be carried out, the areas which need to be consolidated and where property needs to be divided, public space areas, as well as those where forestry and agriculture land needs to be converted into non-forestry and non-agricultural use. The binding arrangements have to be transferred directly from the study of conditions and directions of spatial development onto the local plan. Thus, it seems reasonable to allocate a separate section of the study in the form of arrangements which are binding while drawing up local plans (Niewiadomski, ed. 2006: 96).

At this point it is worth recalling a judgment of the Supreme Administrative Court dated 27 September 2007, II OSK 1028/07, Lex no. 384313, on a land-use adopted in the study and the use adopted in the local plan. The Court took the view that the use presented in these two documents was different in terms of its legal implications. The use of land in the study, which is an act binding internally across the commune, will be relevant while adopting the plan. The use of land in the local plan, which is a local law – universally applicable, will have consequences for entities external in relation to the commune authorities – for instance for property owners. As such the study binds the authorities in this respect, and may only indirectly influence the rights and obligations of entities outside the system of public administration bodies, which, however, does not lead to direct violation of individual legal interests or rights of those entities (judgment of the Supreme Administrative Court dated 3 August 2007, II OSK 614/07, Lex no. 334317).

In formulating the content of the study, an important role is played by the provisions of the Act of 27 April – Environmental Protection Law, Official Journal 2017, item 519, as amended. In Article 72(1) of this act, the legislator sets out that the study of conditions and directions of spatial development should ensure balance in nature and rational management of water resources. Moreover, the crucial factors of the relevant measures are listed. The factors laid down in the act include the following: formulating programs for a rational use of the land surface, including mineral exploitation areas, rational land management; taking into account the areas covering

mineral deposits, and the current and future needs for their exploitation; ensuring a comprehensive solution to problems involved in the development of urban and rural areas, putting a particular emphasis on water management, sewage, waste management, transport and public communication systems, and arranging and developing green areas; taking into account the need for protecting water, soil and land against pollution in connection with agricultural activities; ensuring protection of landscape assets and climatic conditions; considering the need for preventing land mass movements; taking into account the need for preserving air, water, soil, and land, as well as protection against noise, vibrations and electromagnetic fields.

While allocating land for specific use and while formulating tasks relating to its development within the land use structure, the legislator also provided for that the study was to define the proportions allowing for either sustaining or restoring the balance in nature and good living conditions.

The content of the study is also determined by the provisions of the Act of 23 July 2003 on the Protection and Care of Historical Monuments (Official Journal 2017, item 2187, as amended) and the Nature Conservation Act of 16 April 2004 (Official Journal 2018, item 142, as amended). In the context of the paper, what is paramount are the provisions of the Act on Water Provision to the General Public of 7 June 2001 (Official Journal 2017, item 328, as amended), which state that directions for water supply and sewage network development are to be formulated in the study. For the protection of public security, what is of no little importance is to identify threats related to water resources. In this respect, the measures should seek to minimize the threats through an integrated spatial policy which would improve flood prevention as well as combat water shortages.

3.2 Procedure for drawing up the study of conditions and directions of spatial development

The study of conditions and directions of spatial development sets out the aims of spatial policies to be implemented by public administration authorities in a commune. Its adoption is the commune's public task while its performance is carried out according to a strictly defined procedure which is regulated by the legislator in the Act on Spatial Planning and Development.

Scholars of administrative law divide the procedure of adopting the study into three principal groups. The first stage involves an analysis of the state of spatial development of the commune and covers the following issues: an ecophysiological study, socio-demographic issues, economic and

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economics-based issues, technical issues and spatial management. In the subsequent stage determinants are presented for the commune's spatial development, in other words, it is to indicate what is available to the commune, and that includes the natural environment and cultural resources, socio-demographic conditions, basic economic functions, the state of spatial development, technical infrastructure, preferences and limitations of spatial development and spatial conflicts and problem areas. The last stage of the procedure presents the purposes of spatial development which includes the formulation of the major goals of the commune's development and directions of spatial development as the basis underlying the implementation of the commune's spatial policy and indication of instruments employed within this policy.

The public administration authority competent to draw up commune's planning acts – including the study of conditions and directions of spatial development – is head of the commune (mayor, city president), as a commune's executive authority. The head of the commune (mayor, city president) is responsible for proper performance of works concerned with the study. Moreover, he/she entrusts the implementation of those actions to persons who are qualified to perform such work, that is, urban planners (for more see the provision of the Act of 15 December 2000 on Professional Association of Architects, Construction Engineers and Urban Planners, Official Journal 2016, item 1725, as amended), appointed pursuant to the Act of 29 January 2004 – Public Procurement Law (Official Journal 2017, item 1579, as amended).

The first action to be undertaken by the commune in order to set out the rules on spatial policy which take into account the rules on spatial development is for the Council of the Commune to pass a resolution on initiating the drawing-up of the study. The Council does not pass the study as a resolution, but the entire study, including its text and graphic parts constitute an annex to the said resolution. Having passed the resolution, the head of the commune (mayor, city president) is required to make announcement as to the adoption of the resolution on launching the study in local press, and through communication, as well as by the method traditionally used in a particular locality. He/she also specifies the form, place and date for submitting applications pertaining to the study, which is to be done within 21 days from the announcement date. In terms of how the term of 21 days is to be established, the Administrative Court stated that this deadline should be calculated from the day on which the information was disseminated in each form provided for by law (Judgment of a Voivodship Administrative Court dated 9 December 2009, II SA/Bd 508/09,

and a judgment of the Supreme Administrative Court dated 4 November 1999, IV SA 1683/98, Lex no. 48260).

Pursuant to the wording of Article 11 points 1 and 3 of the act, entities interested in the study submit applications which the head of the commune (mayor, city president) examines. The act, however, does not indicate in what legal form this action should be performed nor does it require from the relevant authority to specify the method of including the application in the study, nor to justify why a particular application has been rejected. It is therefore reasonable to assume that authorities may confine themselves to compiling a list of applications submitted under Article 11 point 1 of the Act on Spatial Planning and Development, presented in a table, attached to the study, indicating which applications have been accepted and which rejected. For the planning purposes, it is important to be able to identify the applications submitted. This view is entirely in line with the judgment issued by a Voivodship Administrative Courts dated 6 April 2010, II Sa/Ke 268/09. The next step to be taken by the head of the commune (mayor, city president) is to communicate in writing the adoption of the resolution on drawing up the study to institutions and authorities competent to agree on and evaluate this act. Following that, the head of the commune draws up a draft study, taking into account the arrangements of the voivodship's local plan and the framework study of conditions and directions of spatial development of Metropolitan Association, pursuant to Article 11 point 5 of the Act on Spatial Planning and Development in the wording that has been in force since January 1, 2018. Further on, the draft study is subject to evaluation by a competent urban planning and architecture commission and is coordinated with the voivodship management board in terms of its compliance with the provisions of the voivodship local spatial development plan, with the Metropolitan Association Board as to its compliance with the framework study devised by the Metropolitan Association, and in addition with the voivode.

Irrespective of the above arrangements, the head of the commune (mayor, city president) seeks an opinion on the solutions adopted in the study from the head of the district authority, neighboring communes, competent regional heritage conservator, competent military authorities and those competent for border and national security, competent director of maritime office in the context of the development of technical belt, protection belt and seaports and harbors, competent mines inspectorate in the context of mountain area planning, competent body of the geological survey, minister competent for health issues in the context of planning health resort areas.

The analysis of the positive law leads to the conclusion that the provision o Article 11 point

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5 of the Act on Spatial Planning and Development in the version in force since January 1, 2018 provides that it is necessary to agree on the study with the National Water Holding Polskie Wody in terms of the development and planning of areas which are at high flood risk. Moreover, the competent authority of the State Fire Department and of Voivodship Environmental Inspector are authorized to agree on the draft study in terms of the location of new facilities with a high risk of serious accidents.

It is therefore worth highlighting that in the context of flood prevention the role of the State Water Holding Polskie Wody, which is responsible for agreeing on the content of the draft study, is rather significant. Should the holding be called on to agree on the said draft, it should be aware of the actual extent, as it arises from the relevant provisions, to which the holding should examine the application which it is to verify. If the content of the application raises doubts, Polskie Wody should call on the authority seeking its consent to be more precise in terms of the content or scope of the application.

The procedural requirement is to announce that the draft study is available for viewing by the public and to publish it on the website of the commune's office where it is available for viewing for at least 21 days. This is the time to organize a public discussion as regards the solutions adopted. Through ensuring local community's active participation, the discussion can shape the legal situation of owners of plots who are, after all, directly involved in the matter (on the subject of determinants of the community's participation in spatial planning in the context of applicable provisions, see, in particular, the doctoral thesis – Zastawnik 2013).

Under the existing legal regulations, legal and natural persons, and organizational units lacking legal personality are entitled to make comments on the draft study within the term of 21 days following the day of its availability for public viewing. The comments may be taken into account by the council of the commune itself which in passing the study decides on the way in which to examine the comments submitted to the draft study within the set deadline. Once such public consultations have been completed, only then does the head of the commune (mayor, city president) submit the draft study to the council of the commune for its adoption together with the list of comments not included in the draft study.

The last phase of drawing up the study, as a planning act, is its adoption by the council of the commune. Consequently, the legal act taken to adopt the study, together with the blueprint and the text part and the council of the commune's decision as to which comments to address in the study,

as well as the planning work documentation are submitted to the voivode for assessing their compliance with law.

3.3 Legal consequences of adopting the study of conditions and directions of spatial development

The study of conditions and directions of spatial development is an act of spatial policy. It is not an act of local law, but it is an act that is in force across the commune's territory. As a result, on the one hand, it binds the commune authorities in their drawing up local plans, but, on the other hand, it is not binding when it comes to issuing planning permission, or a decision on public purpose investment localization. In light of the above, it may not provide the ground for refusing investments and as such has no immediate legal effects. Still, drawing up and updating the study is one of the commune's direct statutory responsibilities burdened by legal penalties, and it has immense relevance for public security protection.

Drawing up the study of conditions and directions of spatial development has the effect that its content is closely connected to the future local plan, for it is not possible to draw up a local plan without the study already being in place (Chojnacka 2009: 72; see also Brzeziński 2013).

Within the present legal framework – including first and foremost the Act on Spatial Planning and Development and the Act on Commune Local Government – there should be no doubt that the argument stating that the study, although not an act of local law, is a document of strategic nature for the commune's spatial policy. In the light of this view, one should conclude that the study is a planning document binding internally the commune's executive body with its decision-making body. Ultimately, the study is binding and obligatory for the commune's executive authority (head of a commune, mayor, president of a city) when drawing up draft local plans; and, as a guideline for all the operations of the said authority, it has immediate consequences for spatial planning. Moreover, the Council of the Commune (the commune's executive body) is bound legally by the content of the study when adopting a local plan and with respect to all other actions involved in the implementation of spatial policy, which directly shapes Poland's public security.

One should, however, bear in mind, that the provisions of the Act on Spatial Planning and Development require that the local plan complies with the content of the study. This view may be applied to the judgments issued by administrative courts which hold that one of the paramount issues to be scrutinized by the court as regards the local plan is this very compliance with the

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provisions included in the study (see more, for example, judgment of a Voivodship Administrative Court dated 18 April 2008, II SA/Kr 157/08, Lex no. 496199). Despite the aforementioned requirement for the study to be compliant with the local plan – the Act on Spatial Planning and Development does not envisage any penalties for the commune’s authorities for taking actions which run counter the rules on spatial policy accepted in the study (Niewiadomski, ed. 2009: 85-87).

4. Conclusion

The study of conditions and directions of spatial development is an essential instrument for managing spatial security across every commune in Poland, affecting directly the level of public security locally, and then, as a preventive measure, it exerts impact on the level of regional and national security of the Republic of Poland. In practical terms, the study is in the first place a document of an informative nature for commune’s authorities, enabling them to assess the current state of spatial development and commune’s current needs. Moreover, the informative nature of the plan is why it plays such a crucial role in planning – as a basic element of the governing process in a commune – allowing the commune’s residents and investors who, having the opportunity to familiarize themselves with the plan, can make subsequent decisions which the administration will typify in the form of the future decisions on localization, thus affecting the level of public security within a local community.

The importance of legal instruments in ensuring spatial security, and in broader terms, Poland’s public security is immense. The study of conditions and directions of spatial development is a planning document of the commune. Although not an act of local law, its role is still significant. As an act being internally applicable is binding for the commune’s authorities during the drawing-up of local plans. As an administrative document, it consists of two parts: text and graphic, while its essential provisions must include the rules laid down in the concept of the country’s spatial planning and the arrangements established in the voivodship strategy for spatial planning and development.

The conceptualization of considerations on the nature of the study of conditions and directions of spatial development leads directly to the conclusion that in practical terms the the study is in the first place a document of an informative nature for the commune’s authorities,

enabling them to assess the current state of spatial development and commune's current needs. Moreover, the informative nature of the plan is why it plays such a crucial role in planning – as a basic element of the governing process in a commune – allowing the commune's residents and investors who, having the opportunity to familiarize themselves with the plan, can make subsequent decisions which the administration will typify in the form of the future decisions on localization, thus affecting the level of public security within a local community.

In the context of the conclusions drawn about the study, one should emphasize that an act which is universally applicable, being of particular relevance to the commune's spatial security is the local spatial development plan. It plays a valid role in such issues as land use, specifying the methods for land planning and its built-up and as such provides the key basis for making administrative decisions by head of the commune (mayor, city president) on land management, which naturally impacts the legal solutions pertaining to the use of flood risk areas. It is deplorable that drawing up local plans is not within the scope of communes' responsibilities as in this respect they enjoy decision-making discretion. If no local spatial development plan has been adopted for the commune's territory, the implementation of spatial policy is carried out through decisions determining the conditions related to spatial management and development which are governed by the substantive content of the commune's study of conditions and directions of spatial development.

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